



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 16th day of April, 2018

Flugleidir, h.f., d/b/a Icelandair

**Violations of 49 U.S.C. § 41712 and
14 CFR Part 259**

Docket DOT-OST-2018-0001

Served April 16, 2018

CONSENT ORDER

This order concerns violations by Flugleidir, h.f., d/b/a Icelandair (Icelandair) of 14 CFR Part 259, and the statutory prohibition against unfair and deceptive practices and unfair methods of competition, 49 U.S.C. § 41712. Specifically, it addresses violations of the Department’s rules requiring carriers to respond to consumer complaints in a timely manner, as well as the Department’s rules requiring that carriers adhere to the standards set forth in their customer service plans. It directs Icelandair to cease and desist from future violations of the statute and regulations, and assesses the carrier a compromise civil penalty of \$100,000.

Applicable Law

14 CFR Part 259 provides for enhanced protections for airline passengers. Pursuant to 14 CFR 259.5(a) and (b), a covered carrier¹ must adopt and adhere to a customer service plan that includes a commitment ensuring, among other things, responsiveness to consumer problems. A carrier’s failure to comply with its own customer service plan violates 14 CFR 259.5(a). Furthermore, pursuant to 14 CFR 259.7(c), covered carriers must acknowledge receipt of written complaints regarding scheduled service within 30 days of receipt of the complaint. Within 60 days of receipt

¹ For the purposes of 14 CFR Part 259, covered carriers are certificated, commuter, or foreign air carriers operating to, from, or within the United States, conducting scheduled passenger service or public charter service with at least one aircraft having a designed seating capacity of 30 or more seats.

of the complaint, the carrier must provide a substantive written response.² The failure to provide a written acknowledgment within 30 days and a written substantive response within 60 days violates sections 259.5(b)(11) and 259.7. Violations of 14 CFR 259.5 and 259.7 constitute unfair and deceptive practices in violation of 49 U.S.C. § 41712.

Facts

Icelandair is a foreign air carrier that operates scheduled passenger service to and from the United States using at least one aircraft with a designed seating capacity of more than 30 passenger seats. Icelandair is subject to the requirement in 14 CFR Part 259 that the carrier acknowledge consumer complaints within 30 days of receipt and send a substantive response within 60 days of receipt. Moreover, Icelandair committed in its customer service plan to respond to consumer complaints in a shorter period of time—i.e., acknowledge consumer complaints within seven days of receipt and send a substantive response within 31 days of receipt.

An investigation by the Department's Office of Aviation Enforcement and Proceedings (Enforcement Office) revealed that for a significant period of time during 2014 and 2015, Icelandair failed to provide substantive responses within 31 days of receipt to over 20% of the consumer complaints reviewed by the Enforcement Office, in violation of Icelandair's customer service plan. Icelandair failed to provide a substantive response within 60 days of receipt to over 40% of these complaints, in violation of 14 CFR 259.7. By violating its own customer service plan, Icelandair violated 259.5(a). The carrier's failure to adhere to both 14 CFR 259.5 and 259.7 also violated 49 U.S.C. § 41712.

Response

In response, Icelandair strives to provide its customers with a timely response whenever the company receives a complaint regarding its services. According to Icelandair, in many instances, these complaints follow operational disruptions such as flight delays or cancellations. Icelandair explains that it has in the past not had sufficient resources to respond to customer complaints within the time frame provided in the regulation as the number of operational disruptions can vary greatly. Icelandair states that it sincerely regrets these occurrences and has made significant effort to improve the response time. The carrier adds that this effort includes the addition of personnel as well as revision to its work procedure. As a result of the action which has already been taken, the management of Icelandair states that it is confident that it will be able to meet its obligations according to 14 CFR Part 259 in the future.

Decision

The Enforcement Office views seriously Icelandair's violations of 14 CFR Part 259 and 49 U.S.C. § 41712. Accordingly, after carefully considering all the facts in this case, including those set forth above, the Enforcement Office believes that enforcement action is warranted. In order to avoid litigation, and without admitting or denying the violations described above, Icelandair

² As noted in the Enforcement Office's Frequently Asked Questions for Consumer Rule II, a "substantive response" is one that addresses the specific problems about which the consumer has complained. This type of response often results in a resolution of the complaint.

consents to the issuance of this order to cease and desist from future violations of 14 CFR Part 259 and 49 U.S.C. § 41712, and to the assessment of \$100,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301. The compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It establishes a strong deterrent against future similar unlawful practices by Icelandair and other carriers.

This order is issued under the authority contained in 49 CFR Part 1.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that Flugleidir, h.f., d/b/a Icelandair violated 14 CFR 259.5(b)(11) and 259.7(c) by failing to provide timely substantive responses to complaints within 60 days of receiving the complaint;
3. We find that Flugleidir, h.f., d/b/a Icelandair violated 14 CFR 259.5(a) by failing to provide substantive responses to complaints within 31 days of receiving the complaint, as set forth in the Icelandair Customer Service Plan.
4. We find that by engaging in the conduct described in paragraphs 2 and 3, above, Flugleidir, h.f., d/b/a Icelandair engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
5. We order Flugleidir, h.f., d/b/a Icelandair and its successors and assigns to cease and desist from further violations of 49 U.S.C. § 41712 and 14 CFR Part 259;
6. We assess Flugleidir, h.f., d/b/a Icelandair \$100,000 in compromise of civil penalties that might otherwise be assessed for the violations described above. Of this total amount, \$50,000 shall be due and payable within 30 days of the service date of this order. The remaining \$50,000 shall become due and payable if, within one year of the service date of this order, Flugleidir, h.f., d/b/a Icelandair violates this order's cease and desist or payment provisions, in which case the entire unpaid amount shall become due and payable immediately and Flugleidir, h.f., d/b/a Icelandair may be subject to additional enforcement action for failure to comply with this order;
7. We order Flugleidir, h.f., d/b/a Icelandair to pay within 30 days of the issuance of this order the penalty assessed in Ordering Paragraph 6, above, through Pay.gov to the account of the U.S. Treasury. Payments shall be made in accordance with the instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall subject Flugleidir, h.f., d/b/a Icelandair to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to further enforcement action for failing to comply with this order.

This order will become a final order of the Department 10 days after its service date unless a timely petition for review is filed or the Department takes review on its own motion.

BY:

BLANE WORKIE
Assistant General Counsel for
Aviation Enforcement and Proceedings

An electronic version of this document is available at www.regulations.gov.